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Attorneys for Defendants
NATIONSTAR MORTGAGE, LLC; AURORA LOAN SERVICES, LLC;
AURORA COMMERCIAL CORP.; and MORTGAGE ELECTRONIC
REGISTRATIONS SYSTEMS, INC.

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

DORI CIOCILOLO, an individual,

Plaintiff,

vs.

BARCLAYS BANK, PLC, a subsidiary
of BARCLAYS PLC, as successor in
interest to LEHMAN BROTHERS
BANK, FSB, a national banking
institution; AURORA LOAN SERVICES
LLC, a business entity; NATIONSTAR
MORTGAGE LLC, a business entity;
OLD REPUBLIC DEFAULT
MANAGEMENT SERVICES, a business
entity; MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS INC., a
business entity; and DOES 1 through 10
inclusive,

Defendant.

Case No.

**DEFENDANT NATIONSTAR
MORTGAGE LLC'S NOTICE OF
REMOVAL OF ACTION UNDER
28 U.S.C. § 1441(A)
(DIVERSITY JURISDICTION)**

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1 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

2 PLEASE TAKE NOTICE that defendant Nationstar Mortgage LLC
3 (“Nationstar”) hereby removes to this Court the state court action described below.

4 1. On July 22, 2013, an action was commenced in the Superior Court of the
5 State of California in and for the County of Sonoma, entitled *Dori Ciociolo v.*
6 *Barclays Bank, PLC, et al.*, as case number SCV254005 (the “State Court Action”).

7 2. Service of Plaintiff’s Complaint was made on Nationstar on July 22,
8 2013. Pursuant to 28 U.S.C. § 1446(b), this Notice is filed within thirty (30) days of
9 receipt of the initial pleading setting forth the claim for relief upon which this action
10 is based.

11 3. Copies of all process, pleadings and orders from the State Court Action
12 are attached hereto as Exhibit 1, pursuant to 28 U.S.C. § 1446(a), and incorporated
13 herein.

14 4. This action is a civil action of which this Court has original jurisdiction
15 under 28 U.S.C. § 1332(a), and is one which may be removed to this Court by PCNA
16 pursuant to the provisions of 28 U.S.C. § 1441(a), in that there is diversity of
17 citizenship among the parties pursuant to 28 U.S.C. § 1332(c) and the amount in
18 controversy exceeds \$75,000.

19 5. Plaintiff is a resident of the State of California. Compl ¶ 11.

20 6. Nationstar is not, and at all relevant times was not, a citizen of the State
21 of California. Nationstar is a citizen of Delaware for diversity purposes. A limited
22 liability company is a citizen of every state in which its owners or members are
23 citizens. *Johnson v. Columbia Properties Anchorage LP*, 437 F.3d 894, 899 (9th Cir.
24 2006); *GMAC Commercial Credit LLC v. Dillard Dep’t Stores, Inc.*, 357 F.3d 827,
25 828-29 (8th Cir. 2004). Nationstar is a Delaware limited liability company. Its
26 members are Nationstar Subl LLC (with 99% ownership) and Nationstar Sub2 LLC
27 (with 1% ownership). Both members are also Delaware limited liability companies.
28 Nationstar Subl and Nationstar Sub2 are 100% owned by Nationstar Mortgage

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1 Holdings, Inc., a Delaware corporation. The principal place of business for Nationstar
2 Mortgage Holdings, Inc. is located at 350 Highland Dr., Lewisville, TX 75067.

3 7. Defendant Aurora Loan Services, LLC ("Aurora Loan Services") is not,
4 and at all relevant times was not, a citizen of the State of California. Aurora Loan
5 Services is a citizen of Delaware for diversity purposes. Aurora Loan Services is
6 organized as a Delaware limited liability company, and its principal place of business
7 is in Littleton, Colorado. Its sole member is Aurora Commercial Corp. is a Delaware
8 corporation with its principal place of business in Littleton, Colorado. Aurora Loan
9 Services, through undersigned counsel, consents to removal of this action.

10 8. Defendant Mortgage Electronic Registration Systems, Inc. ("MERS") is
11 a Delaware corporation with its principal place of business in New York. MERS,
12 through undersigned counsel, consents to removal of this action.

13 9. Defendant Old Republic Default Management Services is a division of
14 Old Republic Diversified Services, Inc., a Minnesota corporation, which maintains its
15 principal place of business in Minnesota. Nationstar has made a good faith effort to
16 determine whether Old Republic has been served with the Complaint, but is unable to
17 determine if Old Republic has been served with the Complaint. Nationstar will obtain
18 Old Republic's consent once Old Republic has been served with the Complaint.

19 10. Defendant Barclays Bank, PLC is incorrectly named as a successor in
20 interest to Lehman Brothers Bank, FSB. On April 27, 2009, Lehman Brothers Bank,
21 FSB changed its corporate title to Aurora Bank, FSB. Aurora Commercial Corp. is
22 the successor corporation to Aurora Bank, FSB. Aurora Commercial Corp. is a
23 Delaware corporation with its principal place of business in Littleton, Colorado.
24 Aurora Commercial Corp. therefore responds to the Complaint as the true successor
25 to Lehman Brothers Bank, FSB. Aurora Commercial Corp., through undersigned
26 counsel, consents to removal of this action.

27 11. Pursuant to 28 U.S.C. § 1441(a), the citizenship of defendants sued
28 under fictitious names shall be disregarded when determining removal jurisdiction.

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1 Accordingly, the citizenship of Does 1 through 10 should not be considered when
2 determining whether jurisdiction based on diversity of citizenship exists in this case.

3 12. The amount in controversy exceeds \$75,000.00. 28 U.S.C. § 1332(a),
4 Generally, “[t]he amount in controversy is determined from the allegations or prayer
5 of the complaint.” William W. Schwarzer, Federal Civil Procedure Before Trial, §
6 2:1782 (citing *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 289 (1938)
7 (holding that inability to recover an amount adequate to give court jurisdiction does
8 not oust court of jurisdiction). “In actions seeking declaratory or injunctive relief, it is
9 well established that the amount in controversy is measured by the value of the object
10 of the litigation. If the primary purpose of a lawsuit is to enjoin a bank from selling or
11 transferring property, then the property is the object of the litigation.” *Reyes v. Wells*
12 *Fargo Bank, NA.*, 2010 U.S. Dist. LEXIS 113821, at *12-13 (N.D. Cal. 2010)
13 (internal citations omitted). Here, Plaintiffs seek rescission and declaratory relief
14 residential mortgage loan with an original balance of \$650,000. Compl. ¶ 24.
15 Plaintiffs also seek punitive damages and compensation for emotional distress arising
16 out of allegedly fraudulent misrepresentations connected to the alleged loan
17 modification agreement. Compl. at p. 47 “Prayer for Relief.” Plaintiffs also seek
18 attorneys' fees according to proof, based on alleged contractual agreements between
19 themselves and Defendants. *Id.* Based on these allegations, and given the principal
20 balance of the residential mortgage loan in question, it is facially apparent from the
21 Complaint that the amount in controversy in this action exceeds \$75,000.

22 13. In accordance with 28 U.S.C. § 1446(d), copies of this Notice of
23 Removal shall be served timely upon Plaintiff, through his counsel of record, and a
24 copy of this Notice of Removal shall be filed timely with the Superior Court.

25 14. In removing this action, Nationstar does not intend to waive any rights or
26 defenses to which it is otherwise entitled under state or federal law, as applicable,
27 including but not limited to those set forth in the Federal Rules of Civil Procedure,
28

1 including, but not limited to, lack of personal jurisdiction, improper service and
2 improper venue.

3 Dated: August 23, 2013

DYKEMA GOSSETT LLP

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5 By: /s/Ashley R. Fickel

Ashley R. Fickel

6 Attorneys for Defendants

7 NATIONSTAR MORTGAGE, LLC;

8 AURORA LOAN SERVICES, LLC;

9 AURORA COMMERCIAL CORP.;

10 and MORTGAGE ELECTRONIC
11 REGISTRATIONS SYSTEMS, INC.

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